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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,769	03/11/2004	Kyle A. Ray	CON26 P-306	6436

277 7590 06/21/2006

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EXAMINER

MATZEK, MATTHEW D

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10798,769	Applicant(s) RAY ET AL.	
	Examiner Matthew D. Matzek	Art Unit 1771	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 6/1/2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 15-18, 20 and 21.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

NORCATORRES
PRIMARY EXAMINER

Matthew Matzek
6/12/2006

Continuation of 11. does NOT place the application in condition for allowance because: The objection to claim 15 has been withdrawn due to amendment. Applicant argues that neither Copperwheat nor any other prior art of Record teach the concept of using an impermeable film between two nonwoven fabric layers of a thermoformable composite. Copperwheat actually teaches that the bonding between the variable compression fabric layer and the formable fabric layer is achieved by using binder fibers and then applying heat and/or pressure or by mechanical means. Examiner agrees that Copperwheat does not teach the use of an impermeable adhesive layer for bonding the two nonwoven fabric layers, but instead Ramesh has been relied upon for this teaching. Ramesh teaches the use of a polyolefinic layer that is laminated to a foam layer to create a sound and moisture vapor barrier. The continuous polyolefinic layer will become liquid and flow under the application of heat and pressure. Therefore, if the binder fibers of Copperwheat were replaced with the polyolefinic film of Ramesh the final article would possess moisture vapor impermeability and the thermoplastic polyolefin will also serve as an adhesive layer. The motivation to combine the inventions of Copperwheat and Ramesh is provided by Ramesh as the continuous polyolefinic layer serves as a moisture vapor barrier and when it is put through the thermal lamination process it would ~~as~~ serve as a thermoplastic adhesive. The motivation to combine the references is provided by Ramesh as it teaches that surfaces that are exposed to environmental conditions favorably possess a moisture vapor barrier. Applicant argues that the use of the continuous film of Ramesh is contradictory to the stated objectives of Copperwheat because it would inhibit the ease at which the article could be recycled due to the use of fillers in the film, however Applicant has failed to provide an evidentiary teaching to support such an assertion. No evidence has been provide to support the assertions that a filled film would undesirably add weight to the Copperwheat composite and a non-filled foam would not be expected to provide sound attenuation .